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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,355	08/06/2003	Russell L. Pond	042933/310237	8888
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ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				
EXAMINER				
FRENEL, VANEL				
ART UNIT		PAPER NUMBER		
3687				
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09/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/635,355

Applicant(s)

POND ET AL.

Examiner

VANEL FRENEL

Art Unit

3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/11/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Amendment filed 5/11/09. Claims 1-2, 5, 10, 12 and 15-16 have been amended. Claims 3-4 have been cancelled. Claims 1-2, 5-16 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, and 5-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (6,891,811) in view of Flom et al. 2001/0054087) and further in view Mamdani et al. (7,240,036).

As per claims 1-2, and 5-16, Smith discloses a system comprising: a proximity reader configured to interact with a mobile station presented to said proximity reader by a user (See Smith, Col.3, lines 4-29)," wherein said mobile station is configured for short range proximity signaling and two way messaging (See Smith, Fig.8; Col.4, lines 6-14; Col.4, lines 36-41)" "wherein the plurality of servers are configured to initiate a voice call to the mobile "station", request an authentication code from a user of the mobile "station", and receive an authentication code entered into the mobile "station" by the user; (See Smith, Col.4, lines 6-14).

Smith does not explicitly disclose wherein said proximity reader "is configured to use short range proximity signaling to trigger the initiation of a mobile payment session; a plurality of servers "configured to provide" authentication of user and to process payments.

However, these features are known in the art, as evidenced by Flom. In particular, Flom suggests that the system having wherein said proximity reader "is configured to use short range proximity signaling to trigger the initiation of a mobile payment session; a plurality of servers "configured to provide" authentication of user and to process payments (See Flom, Page 7, Paragraph 0069).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Smith within the system of Flom with the motivation of creating customized, portable web sites comprises generating content packages including customized computer applications and data that integrate third party community, external, and personal information, data, and application objects and delivering the generated content packages to the portable electronic devices used by at least one of members of the community and members of related communities in response to user requests, wherein the content packages include at least one of community logo, menu choices, physical establishments, coupons, offers, advertisements, transactions, and other community-relevant content, name, address, category, geographic location, review criteria, schedules, directions, maps, bookings, reservations, transactions, and other content, in any combination (See Flom, Page 2, Paragraph 0012).

Smith in view of Flom teaches all of the limitations above except using one or more function keys of the mobile station" a plurality of point of sale terminals configured to provide access to transaction information; and a messaging system "configured to" provide mobile commerce messaging with said user, wherein said mobile commerce messaging includes digital content of at least one of digital cash.

Mamdani, however, shows using one or more function keys of the mobile station" a plurality of point of sale terminals configured to provide access to transaction information (See Mamdani, Col.14, lines 50-63); and a messaging system "configured to" provide mobile commerce messaging with said user, wherein said mobile commerce messaging includes digital content of at least one of digital cash (Col.1, lines 63-67 to Col.2, line 9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Mamdani within the teachings of Smith and Flom with the motivation of enabling wireless e-commerce transactions to be facilitated and fulfilled in a secure and convenient manner (See Mamdani, Col .2, lines 10-12).

As per claim 2, Flom discloses the system wherein the proximity reader is "configured to" provide an interface to download said digital content (See Flom, Paragraph 0012).

As per claim 11, Mamdani discloses the method wherein the unique transaction confirmation code is unique both to the mobile "station" and to a single present payment

transaction, the method further comprising providing the unique transaction confirmation code to verify payment of the electronic bill (See Mamdani Fig.2, Fig.8; Co1.14, lines 15- 26).

As per claim 13, Flom discloses the method wherein providing identification information to a payment system comprises providing a PIN code and one or more of a table number or seat number to the payment system (See Flom, Fig.5, Fig.6; Page 7, Paragraphs 0068-0069).

As per claim 14, Flom discloses the method further comprising receiving email confirmation of transaction completion, the email including tagged data allowing the data to be used in other programs (See Flom, Fig.2 Fig.5; Page 3, Paragraph 0034).

As per claim 15, Flom discloses the apparatus wherein the processor is further configured to "cause the apparatus to" provide identification information to a payment system by providing a PIN code and one or more of a table number or seat number to the payment system (See Flom, Fig.5, Fig.6; Page 7, Paragraphs 0068-0069).

As per claim 16, Flom discloses the apparatus wherein the processor is further configured to "cause the apparatus to" receive email confirmation of transaction completion, the email including tagged data allowing the data to be used in other programs (See Flom, Fig.2 Fig.5; Page 3, Paragraph 0034).

Response to Arguments

4. Applicant's arguments filed on 5/11/09 with respect to claims 1-2, and 5-16 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on 6:30am-5:00pm.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanel Frenel/

Primary Examiner, Art Unit 3687

August 29, 2009